

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
CIVIL MINUTES—GENERAL

Case No. 5:24-cv-00902-KK-SHK

Date: July 29, 2024

Title: *Lynn Macy v. CSA 18 Special Districts Public Works*

Present: The Honorable Shashi H. Kewalramani, United States Magistrate Judge

D. Castellanos

Deputy Clerk

Not Reported

Court Reporter

Attorney(s) Present for Plaintiff(s):

None Present

Attorney(s) Present for Defendant(s):

None Present

**Proceedings (IN CHAMBERS): ORDER DENYING PLAINTIFF’S MOTION FOR  
SUMMARY JUDGMENT WITHOUT PREJUDICE  
[ECF No. 28]**

On April 26, 2024, Plaintiff Lynn Macy (“Plaintiff”) filed a complaint (“Complaint”) against Defendant CSA 18 Special Districts Public Works (“Defendant”), ECF No. 1, Compl., and on May 30, 2024, Plaintiff filed a First Amended Complaint (“FAC”), ECF No. 11, FAC. On June 20, 2024, Defendant filed a Motion to Dismiss (“MTD”) the FAC. ECF No. 15, MTD.

On July 21, 2024, Plaintiff filed a Motion for Summary Judgment (“MSJ”). ECF No. 28, MSJ. Federal Rule of Civil Procedure (“Rule”) 56 provides that “[u]nless a different time is set by local rule or the court orders otherwise, a party may file a motion for summary judgment at any time until 30 days after the close of all discovery.” Fed. R. Civ. P. 56(b). “Although [Rule 56] allows summary judgment to be filed at the commencement of an action, in many cases the motion will be premature until the nonmovant has had time to file a responsive pleading or other pretrial proceedings have been had.” Fed. R. Civ. P. 56 Advisory Committee’s Notes 2010 Amendments Subdivision (b).

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Here, Defendant's MTD is pending, "which may address some of the arguments raised by Plaintiff[] in the [MSJ]; no answer has been filed; discovery is in the early stages or has not commenced; the parties have not submitted a joint discovery plan; and no scheduling order has been issued." Bennett v. U.S., Case No. 23-cv-1140-WAH-BLM, 2023 WL 8351509, at \*1 (S.D. Cal. Oct. 17, 2023) (denying an motion for summary judgment without prejudice pending resolution of a motion to dismiss). Therefore, Plaintiff's MSJ (ECF No. 28) is **DENIED** without prejudice and may be re-filed by Plaintiff at a later date following resolution of the MTD.

**IT IS SO ORDERED.**